In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 398

JOHN C. DOYLE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES

As stated on page 8, note 2, of the petition for a writ of certiorari, petitioner is a fugitive from justice and was so at the time the petition for a writ of certiorari was filed, having failed to appear for surrender after a motion for a stay of mandate had been denied by the Court of Appeals for the Second Circuit and by Mr. Justice Harlan. This Court will not ordinarily consider a case when the defendant is a fugitive. *Eisler* v. *United States*, 338 U.S. 189. In this case the petition was filed after flight had oc-

curred; the petition itself states that petitioner "has given every indication that he will not return to the United States" from Canada; and the lack of merit in the petition amply appears from the opinion of the court of appeals (Pet. App. 47-59). We respectfully suggest, therefore, that it would be appropriate to dismiss the petition at this time. In the *Eisler* case, after the case had been removed from the docket in June 1949, it was dismissed the following term. See 338 U.S. 883.

Respectfully submitted,

RALPH S. SPRITZER,
Acting Solicitor General.

AUGUST 1965

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